

REMARKS

The instant amendment is filed in response to the official action dated October 6, 2003. Reconsideration is respectfully requested.

The status of the claims is as follows.

Claims 1-87 are pending in the application.

Claims 1-87 stand rejected.

Claims 1, 11, 19-20, 27-31, 35, 38, 40, 44, 46, 65, 67, 82, and 86-87 have been amended.

Claims 15, 21, 25-26, 64, and 85 have been canceled without prejudice.

The Examiner has objected to the abstract of the disclosure because the abstract contains more than 150 words. A replacement abstract containing fewer than 150 words is included with the instant response. Accordingly, the Applicants respectfully submit that the objection to the abstract should be withdrawn.

The Examiner has rejected claims 1-45 under 35 U.S.C. 101 because the claimed invention is directed to non-statutory matter. The official action indicates, however, that this rejection under second 101 of the Patent Laws can be overcome by incorporating language within the claimed limitations that indicates that a type of technology (*i.e.*, computer, processor, etc.) is used to carry

out the steps of the claimed method. The Applicants have amended method claims 1, 11, 15, 19-21, 29, 35, 38, 40, and 44 to include language indicating that the method steps are carried out with the aid of a computer system. Accordingly, the Applicants respectfully submit that claims 1-45 as amended are directed to statutory subject matter and the rejections under 35 U.S.C. 101 should be withdrawn.

The Examiner has rejected claims 1-87 under 35 U.S.C. 102(b) based upon a public use or sale of the invention. Specifically, the official action indicates that information available at the Kronos web site discloses that Workforce Management System products were offered for sale more than one year prior to the earliest priority date claimed by the Applicants, namely, June 28, 2000.

The Applicants have included with this response a Declaration under 37 C.F.R. 1.132, which attests to the fact that the subject matter recited in claims 1-87 was not offered for sale more than one year prior to the earliest priority date of June 28, 2000. As set forth in paragraphs 2-7 of the declaration of Mr. Ian M. Holland submitted herewith, the above-referenced application was originally assigned to Simplex Time Recorder ("Simplex"), and was subsequently assigned to Kronos Incorporated ("Kronos") after

Kronos purchased the labor management assets of Simplex on December 28, 2001. Although Kronos sold a labor scheduling and optimization software product known as SMART SCHEDULER from at least 1993 to 1999 in competition with the corresponding software product sold by Simplex during this period, upon information and belief, the Kronos software product did not contain the invention(s) claimed in the above-referenced application, as set forth in paragraph 8 of the Holland declaration.

Accordingly, the Applicants respectfully submit that the rejection of claims 1-87 under 35 U.S.C. 102 are unwarranted and should be withdrawn.

INFORMATION DISCLOSURE STATEMENT

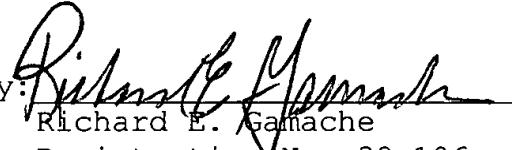
A supplemental information disclosure statement (IDS) is submitted herewith to satisfy the requirement for additional information, as set forth on page 5 of the official action. Included with the supplemental IDS is a brochure entitled "Workforce Scheduler", and a user guide entitled "Workforce Smart Scheduler", to aid the Examiner in properly considering the patentability of claims 1-87, as amended.

In view of the foregoing, it is respectfully submitted that the present application is in a condition for allowance. Early and favorable action is respectfully requested.

The Examiner is encouraged to telephone the undersigned Attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

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